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The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 16

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BOARD OF PATENT APPEALS
AND INTERFERENCES**

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS M. GILLIHAN
and LARRY ALAN WESTERMAN

Appeal No. 2002-1884
Application No. 09/128,580

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ON BRIEF

Before HAIRSTON, KRASS and DIXON, Administrative Patent Judges.
HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 18.

The disclosed invention relates to a print engine for a printer that is capable of operating with multiple page description languages (PDLs).

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Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A print engine for a printer comprising:
 - (a) a first process that receives a document to be printed on a printer;
 - (b) a second process that examines said document to select which of a plurality of third processes is suitable to parse the printer description language of said document;
 - (c) a first one of said plurality of third processes parsing said document using a first printer description language in response to said selection of said second process;
 - (d) a second one of said plurality of third processes parsing said document using a second printer description language in response to said selection of said second process; and
 - (e) said second process not terminating prior to said selected third process initiating said parsing of said document.

The references relied on by the examiner are:

Steeves et al. (Steeves)	5,075,874	Dec. 24, 1991
Pavlovic et al. (Pavlovic)	5,715,379	Feb. 3, 1998
Niihara et al. (Niihara)	5,854,940	Dec. 29, 1998
		(filed Apr. 23, 1996)

Claims 1 through 18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Pavlovic.

Claims 1 through 8 and 10 through 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Steeves.

Claims 9 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pavlovic or Steeves in view of Niihara.

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Reference is made to the briefs (paper numbers 11 and 13) and the answer (paper number 12) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the anticipation rejection of claims 1 through 8 based upon the teachings of Pavlovic, reverse the anticipation rejection of claims 9 through 18 based upon the teachings of Pavlovic, reverse the anticipation rejection of claims 1 through 8 and 10 through 17 based upon the teachings of Steeves, sustain the obviousness rejection of claim 9 and reverse the obviousness rejection of claim 18.

Turning first to the anticipation rejection of claims 1 through 18 based upon the teachings of Pavlovic, the appellants take issue (brief, pages 6 and 7; reply brief, pages 2 through 4) with the examiner's findings (answer, pages 3 through 7 and 11 through 14) that Pavlovic teaches "not terminating" the process of examining a document to select which of a plurality of processes is suitable to parse the printer description language of the document prior to initiating parsing of the document by the selected process, and to examine the document for "synchronization" data while parsing the document.

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Pavlovic teaches that the different page description languages (PDLs) can operate simultaneously or independently (Abstract; column 4, lines 26 through 50; column 7, lines 1 through 9; column 8, lines 48 through 53; column 11, lines 36 through 44) so that neither the first decomposer/PDL nor the second decomposer/PDL has to wait for one to finish work on the image data before the other one can start work on the same image data. Thus, the anticipation rejection of claims 1 through 8 based upon the teachings of Pavlovic is sustained because we agree with the examiner's reasoning (answer, page 14) that "[w]hile the PDL determination process (the second process) of Pavlovic et al is initiated or reinitiated at intermediate locations within a document, the second process is not terminating prior to the selected third process (decomposers 110a, 110b, 110c, or 110d) initiating the parsing of the document."

With respect to claim 9, we agree with the appellants' argument (reply brief, page 4) that the anticipation rejection of this claim can not stand in view of the examiner's admission (answer, page 21) that Pavlovic does not teach the steps of this claim.

The anticipation rejection of claims 10 through 18 based upon the teachings of Pavlovic is reversed because Pavlovic does not examine a document for "synchronization data" (brief, pages 6 and 7; reply brief, pages 5 and 6).

Turning next to the anticipation rejection of claims 1 through 8 and 10 through 17, appellants present the same process termination and synchronization arguments (brief, page 7 and 8; reply brief, pages 6 through 8) presented in connection with the other anticipation rejection. Although we agree with the examiner's position (answer, page 18) that "Steeves et al disclose at column 9, lines 12-17, that the invention has the further advantages that one computer can sent [sic, send] print instructions to the printer, while print instructions from another computer are being printed, thereby increasing the efficiency of the computers connected to the printer," we find no evidence that the "second process" executed by the process manager 100 in Steeves will continue to search the document for a suitable "third process" to parse the printer description language of the same document after a third process has been selected for parsing of the same document. In addition, we can not find any evidence in Steeves that the two noted computers are working on the same document. For these reasons, the anticipation rejection of claims 1 through 8

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based upon the teachings of Steeves is reversed. The anticipation rejection of claims 10 through 17 is reversed because Steeves, like Pavlovic, is not concerned with examining the document for "synchronization data."

Turning lastly to the obviousness rejection of claims 9 and 18, appellants argue (brief, page 8; reply brief, page 8) that Niihara does not teach "a PDL determination process not terminating prior to the initiation" of a parsing process. We agree with appellants' argument, but, as indicated supra, Pavlovic was relied on for such a teaching. Thus, the obviousness rejection of claim 9 is sustained because appellants' argument is not a proper response to the obviousness position advanced by the examiner. On the other hand, the obviousness rejection of claim 18 is reversed because Niihara can not cure the above-noted deficiency in the teachings of both Pavlovic and Steeves.

DECISION

The decision of the examiner rejecting claims 1 through 18 under 35 U.S.C. § 102(e) based upon the teachings of Pavlovic is affirmed as to claims 1 through 8, and is reversed as to claims 9 through 18. The decision of the examiner rejecting claims 1 through 8 and 10 through 17 under 35 U.S.C. § 102(b) based upon the teachings of Steeves is reversed, and the decision of the examiner

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rejecting claims 9 and 18 under 35 U.S.C. § 103(a) is affirmed as to claim 9, and is reversed as to claim 18. Accordingly, the decision of the examiner is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

~~Kenneth W. Hairston~~
KENNETH W. HAIRSTON
Administrative Patent Judge


ERROL A. KRASS
Administrative Patent Judge

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JOSEPH L. DIXON
Administrative Patent Judge

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